

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

2010 MAR 30 AM 9:06

JOHN L. BAKER
CIRCUIT CLERK

DAWN MCDONALD,

Plaintiff,

vs.

CITY OF FLORISSANT, MISSOURI
a Municipal Corporation,

Serve: Mayor Robert Lowery
955 Rue St. Francois
Florissant, Missouri 63033

-and-

ANDREW GERWITZ,

Serve: P.O.E.
1700 North Highway 67
Florissant, Missouri 63033

Defendants.

No.

Division

108LC01296
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PLAINTIFF'S PETITION FOR DAMAGES

Comes now Plaintiff and for her petition against defendants City of Florissant and Andrew Gerwitz states as follows:

1. At all times mentioned herein plaintiff Dawn McDonald was a citizen and resident of the United States of America and the State of Missouri, County of St. Louis, Missouri.

2. At all times mentioned herein, defendant City of Florissant was a municipal corporation within the County of St. Louis and State of Missouri.

3. At all times mentioned herein, defendant Andrew Gerwitz was a peace officer employed by defendant City of Florissant, acting within the scope and course of his employment as a City of Florissant Police Officer.

4. At all times mentioned herein, defendant Andrew Gerwitz was acting under color of law as a Florissant Police Officer.

5. At all times mentioned herein, plaintiff occupied, as her home, the residence located at 9237 Shadydale Dr., Jennings, Missouri.

6. The residence located at 9237 Shadydale Dr., Jennings, Missouri was a single family residence which plaintiff occupied exclusively with her two year old daughter.

7. On Monday, January 11, 2010 defendant Gerwitz traveled from Florissant Missouri to 9237 Shadydale Dr., Jennings, Missouri.

8. On said date Gerwitz traveled to plaintiff's home in a marked police car accompanied by a uniformed Florissant Police Officer.

9. On said date Gerwitz and the uniformed officer knocked on plaintiff's door and, in response thereto, plaintiff opened the door and had a brief conversation with the police officers.

10. At the time, plaintiff was home alone with her daughter.

11. Shortly thereafter, Defendant Gerwitz and the uniformed officer entered plaintiff's residence and conducted a search of the premises.

12. The search was conducted without plaintiff's permission.

13. The search was conducted without a search warrant.

14. The search was conducted without exigent circumstances which would justify a warrantless search of plaintiff's residence.

15. The search was conducted by the police officers forcing their way into plaintiff's residence.

16. The search was conducted outside the city limits of the City of Florissant and in the City of Jennings, Missouri.

17. Plaintiff had a reasonable expectation of privacy regarding the interior of her residence.

18. The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures.

19. The search of plaintiff's residence was an unreasonable search within the meaning of the Fourth Amendment.

20. The search by defendant Gerwitz was an unreasonable search in violation of the Fourth Amendment.

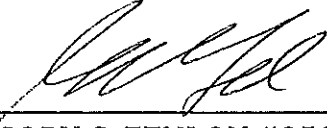
20. Plaintiff seeks damages and compensation for the violation of her civil and constitutional rights pursuant to 42 U.S.C. § 1983.

21. The search by defendant Gerwitz was causally related to the failure of the defendant City of Florissant to adequately train their police officers where to conduct searches and to further train officers regarding those limited circumstances which would justify a warrantless search of a citizen's residence.

22. As a direct and proximate result of the aforementioned conduct of defendants plaintiff has been damaged.

23. In addition to her actual damages, plaintiff is entitled to damages for the constitutional violations as herein described and reasonable attorneys fees and costs.

WHEREFORE, plaintiff prays judgment against defendant City of Florissant and Andrew Gerwitz , jointly and severally, for damages in an amount which will fairly and justly compensate plaintiff, for her attorneys fees and costs, and for whatever other and further relief as to the Court shall seem meet and proper in the premises.

By 
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